

# General Terms & Conditions

You Are Here Limited.

Version 3.0  
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Level 2,  
209 Tuam Street,  
Christchurch Central, 8011

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[youarehere.co.nz](http://youarehere.co.nz)

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You Are Here.

## 1. General

The Company agrees to provide Products and Services to the Client subject to the following terms and conditions. These Conditions shall apply to all Contracts between the Company and the Client unless varied by notice from the Company to the Client or by agreement recorded in writing.

## 2. Agreement / Acceptance

(a) Any instructions received by You Are Here Limited from you for the supply of goods and/or services shall:

- (i) Constitute acceptance by you of these Terms; and
- (ii) Be on the basis of the Contract for that supply and these Terms.

(b) In the event of any conflict between these general Terms and the terms and conditions of any Contract, the Contract will prevail.

(c) The acceptance by you of the terms and conditions of a Contract, or any part or variation, is sufficiently evidenced if either:

- (i) A signed copy of a written agreement, or
- (ii) Any other form of written acceptance or acknowledgement (whether or not signed), Is physically received by us, or received by us via fax, email or in other digital format. The foregoing shall not limit the ability of You Are Here Limited to establish evidence of any other form of acceptance by any other lawful means.

(d) Any form of oral instruction is not a valid form of instruction unless it is sufficiently evidenced in writing and accepted by us or we elect to waive that requirement in any particular case.

(e) Any variation to these Terms or to any Contract (“Change, amendment or Adjustment Request” ) may only be made by an agreement in writing which is communicated to you by us and acceptance of which is evidenced in the same manner as specified in clause (d) Where any Contract for the supply of goods or services by You Are Here Limited Ltd includes goods or services to be provided by third parties:

- (i) You Are Here Limited gives no warranty and accepts no responsibility or liability whatsoever in respect of those goods or services as supplied by that third party;
- (ii) you are solely responsible to that third party for payment for those goods and services; and
- (iii) you hereby authorise You Are Here Limited to act as your agent to contract the provision of those goods and services as contemplated by the applicable Contract.

## 3. Interpretation

In these Conditions and in any Contract to which these terms and conditions apply, unless the context otherwise requires:

Company means You Are Here Limited Limited trading as You Are Here or Slaughterhaus;

(b.) Conditions means these Terms and Conditions to be read and construed with each Estimate provided by the Company;

(c.) Client means the purchaser of products and/or services from the Company;

(d.) Contract means an agreement between the Client and the Company comprising of the Estimate and the Conditions;

(e.) Products and Services means products and/or services sold by the Company to the Client;

(f.) Unless the Company and the Client otherwise agree in writing:

(i.) In the event of any conflict arising between these Conditions and any agreement or contract these Terms and Conditions shall prevail; and

(ii.) Estimates/Quotations by the Company remain open for acceptance within 30 days from the date of the Estimate or Quotation.

### (3a.) Formation of the contract

No contract shall come into existence until the Client’s order has been accepted by the Company. The Client may place an order by either:

- (a.) Accepting the Estimate via phone, email, in person or in writing; or
- (b.) Paying the deposit (if any) referred to in the Estimate; or

(c.) Communicating its order to the Company in a manner otherwise than in accordance with (a) above. The Client cannot cancel a contract after an order has been accepted by the Company and the Client is bound to pay the estimated price.

#### 4. Prices

(a.) The Company will invoice the Client upon completion of the scheduled work which the Client has retained us to complete unless the work is ongoing (past the end of any month) in which case the Company will invoice the Client on a monthly time-taken basis. Invoices are payable within seven (7) working days of the date of that invoice.

(b.) Prices are estimated and quoted in New Zealand Currency and shall be exclusive of GST.

(c.) The Company reserves the right to correct any typographical or clerical errors contained in the prices or specifications.

#### 5. Payment

(a.) Payment for the Products and Services shall be made within seven (7) working days following the date of invoice. The Company reserves the right to require the Client to pay for Products and Services prior to their supply.

(b.) Time for payment is of the essence and, without prejudice to any other rights of the Company, if the Client fails to pay any sum payable pursuant to any Contract when due:

(i.) The Company may treat the Contract as repudiated by the Customer or may until payment in full is made, suspend delivery of products without incurring any liability whatsoever to the Client;

(ii.) The Client shall (if so required by the Company) pay interest to the Company at the default interest rate of ten percent (10%) per annum above the current base lending rate set from time to time by the Company's bankers. Interest shall be payable daily until the date when the payment is received; and

(iii.) The Client shall be liable for all the expenses and costs (including legal costs on a solicitor client basis and 3rd party agency collection expenses) in relation to the Company enforcing or attempting to enforce a Contract or these Conditions.

(c.) Suspension of such services does not relieve the client of its obligation to pay the due amount. Files on external servers, such as hosted e-commerce solutions will be removed and held until payment is made or for 30 days until the client has paid for their invoices in full.

(d.) The company reserves the right to reuse or resell work undertaken in the case of payment default.

(e.) The company accepts no liability or responsibility for loss of income or damage to the client for work removed from third party servers, as a result of non-payment and the client will not take legal action for any situation arising from invoice disputes or removal of the disputed work in such cases

#### 6. Default

(a.) In the event that:

(i.) The amounts payable by the Client to the Company are overdue, or the Client fails to meet any other obligation to the Company, under this or any other Contract or agreement or in the Company's opinion the Client is likely to be unable to meet any payment or other obligations to the Company; or

(ii.) The Client becomes insolvent, has a receiver appointed in respect of all or some of its assets, makes or is likely to make an arrangement with its creditors or has a liquidator (provisional or otherwise) appointed or is placed under statutory or official management; or

(iii.) The Client no longer carries on business or threatens to cease carrying on business; or

(iv.) The ownership or effective control of the Client is transferred or the nature of the Client's business is materially altered; then The Company shall be entitled to cancel all or any part of any Contract with the Client which remains unperformed, in addition to and without prejudice to its other remedies; and all amounts outstanding under this Contract or any other Contract shall, whether or not due for payment, immediately become due and payable.

#### 7. Copyright

(a.) Unless otherwise agreed, the Company shall retain copyright and intellectual property rights in all documents, reports, records, media, electronic files, drawings and designs prepared for and on the Client's behalf.

(b.) The Client will be entitled to use the documents and any copies for the purposes for which they were intended however you (or any other person or entity) are not permitted to make use of, or modify any such document for any other purpose without our agreement in writing. Concepts not chosen will remain the property of the Company.

(c.) On completion and full payment of branding projects the intellectual property rights of the Clients logo design will transfer to the Client.

(d.) Trademarking is the sole responsibility of the Client.

(e.) Warranty – Client. The Client represents and warrants to the company that the Client owns (or has a legal license to use) all photos, text, artwork, graphics, designs, trademarks, and other materials provided by the Client for inclusion in the product and/or services, and that the Client has obtained all waivers, authorizations, and other documentation that may be appropriate to evidence such ownership. The Client shall indemnify and hold the company harmless from all losses and claims, including legal expenses, that may result by reason of claims by third parties related to such materials.

## 8. Privacy

(a.) The Client acknowledges that the Company will collect, use and securely hold information set out in an application for credit for the purpose of providing products or services to the Client, and in developing and running the Company, and providing the Client with information on the Company's products and services. If the Client asks the Company not to provide such information on its products and services, the Company will comply with the Client's request. The Client may ask the Company to show the Client the information it holds about the Client and to make corrections to it.

(b.) The Company or any authorised agent of the Company may collect information about the Client from any person who can provide the Company with information that is of relevance to it. The Client consents to the Company giving the Client's information to any person the Company reasonably believes can assist the Company to provide the Products and Services to the Client.

(c.) The Client understands that the Company may conduct a credit check on the Client. As part of that credit check, the Company will give the Client's information to credit reporting agencies. Credit reporting agencies will use the information provided by the Company to update their credit reporting databases. When other parties use the credit reporting agencies' services, they will be provided the Client's updated information. The Company may use credit reporting agencies' services in the future for purposes related to the provision of credit to the Client. For example, the Company may use credit reporting agencies' monitoring services to receive updates (if any) of the information held about the Client. If the Client defaults on the Client's payment obligations, default information may be listed on the credit reporting agencies' databases and will therefore be disclosed to other parties when they use the credit reporting agencies' services.

(d.) The Client agrees that the Company can use any artwork for their portfolio or in exhibition including draft concepts, unless the client specifically requests that it is kept confidential.

## 9. Websites

(a.) Prior to any website which the Company has created "going live" on the internet, the Client must make payment for all work completed. Should payment not be made and in the event the Client's website is already live and in relation to any work which the Company has undertaken to maintain or update that website then the Company reserves the right to shut down that website until such time as the Company receives full payment.

(b.) If the Client has retained the Company to host your website, the Company will charge monthly fees, and if the Client falls into arrears in relation to those monthly payments, the Company reserves the right to pull the website down and will not be liable for any consequences which might arise in the event of such a situation arising.

(c.) Work requested, outside of the scope of the estimate/ quote and the approved design, will be charged for. After going live, updates or changes the Client wishes to make to the website will also be chargeable.

(d.) Packaging and supplying website files for transfer or taking a website down will incur a cost and will be payable by the Client.

(e.) Once web design is complete, the company will provide the customer with the opportunity to review the resulting work. The company will make one set of minor changes at no extra cost within 14 days of the start of the review period. Minor changes include small textual changes and small adjustments to placement of items on the page. It does not include changes to images, colour schemes or any navigation features. Any minor changes can be notified to the company by e-mail and confirmed by post. The company will consider that the client has accepted the original draft, if no notification of changes is received in writing from the customer, within 14 days of the start of the review period. An hourly fee after this time for tweak and amendments is payable of \$150 per hour plus GST if applicable.

## 10. Proofing & Print

(a.) While the company takes all care to avoid errors, the company accepts no responsibility for typographical errors, spelling mistakes, or incorrect information on any product committed to print or production. It is the Client's responsibility to proof read and approve all final copy before the production of artwork. The email verification of the Client's representative shall be conclusive as to the approval of all artwork prior to their release for printing, implementation or installation. No refunds or reprints are given after a final approved design has gone to print due to oversights by the Client's proof reading.

(b.) PRINT RETURNS AND REFUNDS - It is agreed that the company is not responsible or held liable for any errors contained in the final product after the final product has been approved by the client, (approval may be given in writing), committed to print or posted in view of the public. The company will not be held responsible for and changes or amendment made after approval. It is the sole responsibility of the client to notify the company of any such errors during the revision cycle and before the final files have been generated. In the event of a need to reprint due to errors in content, the client must inform the company within 3 days of product acceptance, and must return the product (at the cost of the client) within 10 days of acceptance for assessment. As with all print projects, payment for re-printed project MUST be prepaid.

(c.) PRINT – COLOUR VARIATIONS - With all printing there may be some colour variations from what you have seen on screen to what the final product looks like and previous orders. This is due to the nature of CMYK printing and bulk-run printing system. There will be no reprints at the expense of the company.

## 11. Guarantee

(a.) If the client is a company or a trust, the person who instructs the Company to provide the Products and Services to the Client or otherwise agrees to guarantee the obligations of the Client to the Company is a guarantor ("Guarantor") in respect of the Client company's obligations to the Company and the Guarantor:

(i.) Guarantees payment of all monies owed by the Client to the Company, and

(ii.) Guarantees the performance by the Client of all obligations, responsibilities and covenants under the Contract.

(b.) The Guarantor agrees that in the event of default by the Client in any payment, obligation, responsibility or covenant under the estimate or quotation, these Conditions or a Contract, the Guarantor may for all purposes be treated as the Client by the Company who shall be under no obligation to take proceedings against the Client before taking proceedings against the Guarantor, and the Guarantor will execute a mortgage over property owned by the Guarantor to secure payment of all monies owed and outstanding by the Client to the Company if requested by the Company.

(c.) Should there be more than one Guarantor then their liability as Guarantors under this Guarantee shall be joint and several.

## 12. Miscellaneous

(a.) If any Condition or part of any Condition is held to be invalid or unenforceable the invalidity or unenforceability shall be deemed eliminated or modified to the minimum possible extent necessary to make the remainder of the Conditions enforceable.

(b.) Failure by the Company to insist upon strict performance by the Client of any of the Conditions shall not be a waiver of any rights of the Company on any subsequent occasion.

(c.) These Terms and Conditions and the Contract may only be varied by the Company in writing at its discretion.

(d.) The Client may not assign or transfer any of its rights or obligations under or in connection with the Contract to any other person whatsoever.

(e.) The Company reserves the right to sub-contract the performance of the Contract or any part of the Contract to any other party or person.

(f.) Neither party shall be liable for any delay, alteration or failure to perform any of its obligations under a Contract where occasioned by an event beyond that party's reasonable control in the nature of force majeure and such party shall be entitled to a reasonable extension of time for the performance of any such obligations.

(g.) The Client shall pay the costs and expenses including legal fees on a solicitor client basis incurred by the Company in exercising any of its rights or remedies or enforcing any of the Conditions. All Contracts made between the Company and the Client shall be governed by and construed in accordance with the laws of New Zealand and the Client agrees to submit to the nonexclusive jurisdiction of the New Zealand Courts.

(h.) Any notice given by one party to the other shall be deemed to have been delivered 48 hours after posting to the recipients registered office or last known address and immediately if forwarded by facsimile or email. Packaging and supplying files will incur a cost and will be payable by the Client in advance of files being supplied.

(i.) DESIGN CREDIT - The Client agrees to allow the company to place a small credit on printed material exhibition displays, advertisements and/or a company Graphic on the Client website. This will be in the form of a small logo or line of text placed towards the bottom of the page. The Client also agrees to allow the company to place websites and other designs, along with a link to the client's site on the company's own website and portfolio for self- promotional purposes.

(j.) RESENDING UPLOADING FILES - If a client loses or accidentally deletes the files delivered by the company at the completion of the project, the company can re upload to Dropbox (or similar), for a fee of \$150 per file per request (plus GST). Providing the request from the Client has been made within 2 years from the date of completion.

(k.) ARTWORK ON USB DRIVE - If any client artwork is required artwork on USB drive , an administration fee of \$150 per file per request (plus GST) plus courier/postage will be payable.

(l.) SEVERABILITY - If any provision of this Agreement is held to be invalid, illegal or unenforceable, the remaining portions of this Agreement shall remain in full force and effect and construed so as to best effectuate the original intent and purpose of this Agreement.

### 13. Additional Experts

The Company reserves the right to utilise the services of outside organisations, sub-contractors or specialists in order to undertake any Services. The cost of the outside organisations will be disbursed to the Customer, or a Price for the service may be set under these terms.

#### 13. Force Majeure

The company shall not be liable for any failure or delay in supply or delivery of products/services where such failure or delay is wholly or partly due to any cause or circumstances whatsoever outside the reasonable control of the company. Including but not limited to war, natural disasters, strikes, lockouts, industrial disputes or unrest, government restrictions or transport delays, fire, power outages, failure attributable to hosting suppliers, breakdown of plant, theft, vandalism, riots, civil commotions, and accidents of any kind or act of terrorism.

### 14. Termination Policy

From time to time circumstances beyond the control of either party may result in the need for project cancellation. In the event of the client canceling a project after a project has commenced, the advance payment (deposit) will be forfeited in lieu of compensation to the company. This is to cover design and administration time spent, resources purchased and allocated, research time and administration costs. If the project is more than 50% completed (this is determined by the company and the client by negotiation) a pro rata payment is payable for time spent up until cancellation notice, at an hourly rate of \$200 per hour plus GST. If a project is cancelled by the company, due to unforeseen circumstances, the deposit will be refunded in full to the client in a timely manner. In the event of cancellation of the project by the client, ownership of all copyrights and the original artwork and disks shall be retained by the company.

15. Approval

I/we agree to You Are Here Limited's Terms and Conditions:  
Company

Name

Signature

Date

I, \_\_\_\_\_ agree to guarantee the obligations of the Client on the terms set out in clause 10 of these Terms and Conditions:

Name

Signature

Date